IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

Crl.Rev.Pet.No. 176 of 1998()

CRA.197/1996 of III ADDL.SESSIONS COURT, ERNAKULAM
CC.432/1993 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI
.....

REVN. PETITIONER: APPELLANT/ ACCUSED

VALSAN S/O. KUMARAN,
NEDUMPARAMBIL VEETTIL,
NAYARAMBALAM VILLAGE AND KARA

BY ADV. SRI.T.I.DANIEL

RESPONDENT: RESPONDENT/ RESPONDENT

STATE OF KERALA REP.BY
THE PUBLIC PROSECUTOR , HIGH COURT
OF KERALA.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 12/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.MP. NO.954/1999 IN CRL.RP.176/1998

DISMISSED

12.07.2007 **SD/- K.R.UDAYABHANU , JUDGE**

/TRUE COPY/

P.S. TO JUDGE

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K.R. UDAYABHANU, J.

CRL.R.P.NO. 176 OF 1998

DATED THIS THE 12th July 2007

ORDER

The revision petitioner stands convicted for the offences under Sections 337 and 338 I.P.C. and sentenced to undergo rigorous imprisonment for three months each.

2. The prosecution case is that on 21-10-1993 at 3 p.m. the accused/revision petitioner, while he was working as conductor in the particular bus, sounded double bell when PWs.1 and 2 were boarding the bus and the driver started the bus and moved it ahead and as a result of the impact PWs.1 and 2 were thrown out in the road and both of them sustained injuries and PW1, one of the sisters sustained fracture to her left leg.

3. The evidence adduced in the matter consisted of the testimony of PWs.1 to 10 and Exts.P1 to P10. The defence examined DW1 who was allegedly a traveller in the bus. But the evidence of DW1 was found to be unreliable as he could not remember the date on which he travelled in the particular bus. The court below has relied on the evidence of PWs.1 and 2 who are school going children. I find that nothing has been brought out to discredit the version of the above witnesses. No contradiction with respect to the previous

statements were brought out. In the circumstances, I find no reason to interfere in the concurrent findings of the courts below. The conviction is confirmed.

So far as the sentence, the counsel for the revision petitioner has pleaded for leniency pointing out that the incident has taken place in 1993 and about 14 years have elapsed since the date of occurrence and commencement of the proceedings and that the accused has been facing the criminal proceedings so far. In the circumstances, I find that the sentence is liable to be modified. The sentence imposed under Section 338 is modified to imprisonment till the rising of the court and to pay a compensation of Rs.7500/- to PW1 and in default to undergo simple imprisonment for three months. No separate sentence is awarded for the offence under Section 337 I.P.C. The revision petitioner shall appear before the Judicial First Class Magistrate-I, Kochi on 24-8-2007 to receive sentence. The Crl. revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P. NO. 176 OF 1998
ORDER

12-7-2007